

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

GERALD W. CORDER,

Plaintiff,

v.

**ANTERO RESOURCES CORPORATION,
a Delaware corporation,**

Defendant.

Civil Action No. 1:18-CV-30

Hon. Judge Irene M. Keeley

c/w 1:18CV31, 1:18CV32,
1:18CV33, 1:18CV34, 1:18CV35,
1:18CV36, 1:18CV37, 1:18CV38,
1:18CV39, 1:18CV40

FINAL JUDGMENT ORDER

1. Plaintiffs Gerald W. Corder, Marlyn C. Sigmon, Garnet C. Cottrill, Randall N. Corder, Janet C. and Leroy Packard, Lorena Krafft, Cheryl Morris, Tracy Bridge, Angela Nicholson, Kevin McCall, and Brian McCall (“Plaintiffs”) are lessors under several leases covering lands in Harrison and Doddridge Counties, West Virginia as follows:

a. Complaint Exhibit 2:

1. A lease from Garnet Cottrill to Antero Resources Appalachian Corporation, dated July 24, 2012, and recorded in Book 1496, Page 1203 in the Office of the Clerk of Harrison County, West Virginia;
2. A lease from Marlyn Sigmon to Antero Resources Appalachian Corporation, dated July 24, 2012, and recorded in Book 1498, Page 865 in the Office of the Clerk of Harrison County, West Virginia;
3. A lease from Janet Packard and Leroy Packard to Antero Resources Appalachian Corporation, dated July 24, 2012, and recorded in Book 1499, Page 147 in the Office of the Clerk of Harrison County, West Virginia;
4. A lease from Lorena Krafft to Antero Resources Corporation, dated September 20, 2012, and recorded in Book 1499, Page 135 in the Office of the Clerk of Harrison County, West Virginia;
5. A lease from Lorena Krafft to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1120 in the Office of the Clerk of Harrison County, West Virginia;

6. A lease from Gerald Corder to Antero Resources Corporation, dated June 29, 2012, and recorded in Book 1496, Page 587 in the Office of the Clerk of Harrison County, West Virginia;
 7. A lease from Gerald Corder to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1110 in the Office of the Clerk of Harrison County, West Virginia;
 8. A lease from Randall Corder to Antero Resources Corporation, dated June 29, 2012, and recorded in Book 1495, Page 350 in the Office of the Clerk of Harrison County, West Virginia;
 9. A lease from Randall Corder to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1128 in the Office of the Clerk of Harrison County, West Virginia;
 10. A lease from Tracy Bridge to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1126 in the Office of the Clerk of Harrison County, West Virginia;
 11. A lease from Cheryl Morris to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1114 in the Office of the Clerk of Harrison County, West Virginia;
 12. A lease from Angela Nicholson to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1118 in the Office of the Clerk of Harrison County, West Virginia;
 13. A lease from Kevin McCall to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1116 in the Office of the Clerk of Harrison County, West Virginia;
 14. A lease from Brian McCall to Antero Resources Corporation, dated August 14, 2015, a memorandum of which is recorded in Book 1562, Page 1108 in the Office of the Clerk of Harrison County, West Virginia;
- b. Complaint Exhibit 3: A lease from James Corder, et al. to Clarence W. Mutschelknaus, dated June 29, 1979, and recorded in Book 1080, Page 677 in the Office of the Clerk of Harrison County, West Virginia;

- c. Complaint Exhibit 4: A lease from James Corder, et al. to Clarence W. Mutschelknaus, dated June 29, 1979, and recorded in Book 1082, Page 656 in the Office of the Clerk of Harrison County, West Virginia.
- d. Complaint Exhibit 5: A lease from James Corder, et al. to J. Robert Hornor, dated May 15, 1981, and recorded in Book 1103, Page 733 in the Office of the Clerk of Harrison County, West Virginia;
- e. Complaint Exhibit 6: A lease from Howard D. Nicholson, et al. to Doran & Associates, Inc., dated August 20, 1979, and recorded in Book 1084, Page 203 in the Office of the Clerk of Harrison County, West Virginia;
- f. Complaint Exhibit 7: A lease from Howard D. Nicholson, et al. to Doran & Associates, Inc., dated August 20, 1979, and recorded in Book 1084, Page 197 in the Office of the Clerk of Harrison County, West Virginia;
- g. Complaint Exhibit 8: A lease from J.A. Day, et al. to R.A. Garrett, dated April 8, 1896, and recorded in Book 99, Page 7 in the Office of the Clerk of Harrison County, West Virginia (the “Flat Rate Lease”);¹ and
- h. Complaint Exhibit 9: A lease from Oma Corder to Clarence W. Mutschelknaus, dated October 3, 1985, and recorded in Book 143, Page 291 in the Office of the Clerk of Doddridge County, West Virginia.²

See ECF No. 240 at Exs. 2–9 (collectively, the “Leases” for Exs. 2–7 and Ex. 9).

2. Defendant Antero Resources Corporation (“Antero”) has developed the Leases, produced gas, and paid royalties to Plaintiffs.

3. Plaintiffs filed their Complaint alleging that Antero failed to properly pay royalties.

4. The parties filed cross-motions for summary judgment.

5. On May 12, 2021, the Court issued an Order denying Antero’s motion for summary judgment and granting in part and denying in part Plaintiffs’ motion for summary judgment.

6. For the purposes of facilitating appeal of the May 12, 2021 Order, the parties agree the rulings in the May 12, 2021 Order would have resulted in summary judgment to the Non-

¹ Randall Corder’s interest in this lease was sold at a tax sale by deed dated January 29, 2002, and recorded in the Office of the Clerk of the County Commission of Harrison County, West Virginia at Book 1337, Page 696.

² Janet C. Packard’s interest in this lease was sold by tax sale deed dated October 29, 2009, and recorded in the Office of the Clerk of the County Commission of Doddridge County, West Virginia at Book 282, Page 517.

Settling Plaintiffs³ for their interests under Exhibits 2 through 7 and to all Plaintiffs for their interests under Exhibit 9.

7. As to the Flat Rate Lease, the parties had disagreed as to whether the amendment to the flat rate statute, West Virginia Code Section 22-6-8, which became effective on May 31, 2018, applies retroactively. The Court determined that the amendment does not apply retroactively, but denied summary judgment because it was “unable to ascertain whether, post-2018, Antero was required to obtain a new permit,” which would trigger the provisions in the statute as amended. ECF No. 242 at 35.

8. Based on publicly-available information provided by Antero to the West Virginia Department of Environmental Protection, the parties now agree that the three wells⁴ associated with the parties’ Flat Rate Lease were permitted prior to May 31, 2018, and no activity requiring new permits occurred after May 31, 2018, following the amendment to the flat rate statute. Accordingly, Antero is entitled to summary judgment on Plaintiffs’ claims regarding Exhibit 8.

9. If the trial were to proceed, it is Plaintiffs’ intention to claim and prove damages of \$100,000.00 from Antero. Such amounts are attributable to Plaintiffs as follows:

Name	Ex. 2 Lease	Ex. 3 Lease	Ex. 4 Lease	Ex. 5 Lease	Ex. 6 Lease	Ex. 7 Lease	Ex. 9 Lease
Garnet Cottrill	\$355.91	\$10,351.61	\$5,127.99	\$9,076.17	\$526.83	\$988.69	\$4.72
Marlyn Sigmon	\$355.91	\$10,351.61	\$5,127.99	\$9,076.17	\$526.83	\$988.69	\$4.72
Janet Packard	\$355.91	\$10,351.61	\$5,127.99	\$9,076.17	\$526.83	\$988.74	N/A
Lorena Krafft	\$36.14	\$513.94	\$261.38	\$663.54	\$68.19	\$147.38	\$0.95
Gerald Corder	\$117.05	\$447.10	\$642.49	\$3,209.40	\$340.84	\$736.53	\$4.72
Randall Corder	\$180.62	\$2,569.66	\$1,306.92	\$3,317.83	\$340.80	\$732.33	\$4.63
Tracy Bridge	\$36.14	\$513.94	\$261.38	\$663.54	\$68.19	\$147.38	\$0.95
Cheryl Morris	\$36.14	\$513.94	\$261.38	\$663.54	\$68.19	\$147.38	\$0.95

³ Gerald W. Corder, Randall N. Corder, Lorena Krafft, Cheryl Morris, Tracy Bridge, Angela Nicholson, Kevin McCall, and Brian McCall entered into a settlement agreement with Antero in *Antero Resources Corp. v. Bridge*, No. 13-C-305-3 (Cir. Ct. Harrison Cty. W. Va.) and are referred to as “Settling Plaintiffs”. Marlyn Sigmon, Garnett Cottrill, and Janet and Leroy Packard were not parties to the settlement agreement with Antero and are referred to herein as “Non-Settling Plaintiffs.”

⁴ The three wells associated with Plaintiffs’ Flat Rate Lease include the Cleta Unit 1H, Cleta Unit 2H, and Opie Unit 1H.

Angela Nicholson	\$11.87	\$171.27	\$87.13	\$221.17	\$21.99	\$47.86	\$0.31
Kevin McCall	\$11.87	\$171.27	\$87.13	\$221.17	\$21.99	\$47.86	\$0.31
Brian McCall	\$11.87	\$171.04	\$86.60	\$220.64	\$21.99	\$47.86	\$0.31
Total:	\$1,509.42	\$36,126.99	\$18,378.36	\$36,409.33	\$2,532.63	\$5,020.67	\$22.59

10. The parties expressly retain all of their objections and otherwise properly preserved rights of appeal with respect to every order and ruling of the Court, from the commencement of the Complaint through entry of final judgment in this matter, including, but not limited to, all rulings of the Court with respect to the Court's May 12, 2021 Order.

11. In lieu of conducting the trial, and subject to the parties' express retention of any appellate rights, the sum of \$100,000.00 against Antero shall be treated as if it were the jury's verdict against Antero in the trial.

Recognizing the parties' desire to appeal its May 12, 2021 Order, in the interests of judicial economy, and based on the reasons set forth in the Court's May 12, 2021 Order granting, in part, Plaintiffs' motion for summary judgment and denying summary judgment to Antero, the Court affirms its grant of summary judgment to the Settling Plaintiffs as set forth in its May 12, 2021 Order, and **GRANTS** summary judgment to Plaintiffs on the legal issue regarding whether any postproduction costs are deductible from Plaintiffs' royalties as such question relates to the Non-Settling Plaintiffs' interests under Exhibits 2 through 7 and all Plaintiffs' interests under Exhibit 9. The Court also **GRANTS** summary judgment to Antero as to all Plaintiffs' interests under Exhibit 8.

It is also accordingly **ORDERED AND ADJUDGED** that judgment is entered in favor of Plaintiffs against Antero in the total amount of \$100,000.00, based on the per-Plaintiff and per-lease allocation in paragraph 10 above, which is inclusive of pre-judgment interest pursuant to West Virginia Code Section 56-6-27, and subject to post-judgment interest pursuant to West Virginia Code Section 56-6-31(c) on the total judgment, which shall accrue from the date of entry

of this judgment order until full payment of the judgment. The parties shall bear their own costs and fees of this proceeding. Any and all motions by the parties shall be filed within the period(s) prescribed by the Federal Rules of Civil Procedure after entry of this Order.

Upon entry of this Order, the judgment shall be final and appealable.

The Clerk is authorized and requested to mail certified copies of this Order upon entry to all counsel of record below.

SO ORDERED.

ENTERED: _____

Irene M. Keeley
United States District Judge

/s/ Marvin W. Masters

Marvin W. Masters (WV State Bar #2359)
mwm@themasterslawfirm.com
April D. Ferrebee (WV State Bar #8034)
adf@themasterslawfirm.com
The Masters Law Firm, LC
181 Summers Street
Charleston, WV 25301
(304) 342-3106

Counsel for Plaintiffs

/s/ W. Henry Lawrence

W. Henry Lawrence (WV State Bar #2156)
hank.lawrence@steptoe-johnson.com
Amy M. Smith (WV State Bar #6454)
amy.smith@steptoe-johnson.com
Lauren K. Turner (WV State Bar #11942)
lauren.turner@steptoe-johnson.com
Shaina D. Massie (WV State Bar #13018)
shaina.massie@steptoe-johnson.com
Steptoe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, WV 26330
(304) 933-8000

Counsel for Antero Resources Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May 2021, I electronically filed this “Final Judgment Order” with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following CM/ECF participants:

Marvin W. Masters, Esquire
April D. Ferrebee, Esquire
The Masters Law Firm, LC
181 Summers Street
Charleston, WV 25301

/s/ W. Henry Lawrence

W. Henry Lawrence (WV Bar #2156)